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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,677	02/12/2001	Mark C. Pace	19538-05784	8995
758 7590 03/16/2010 FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				
EXAMINER STERRETT, JONATHAN G				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/782,677

Applicant(s)

PACE ET AL.

Examiner

JONATHAN G. STERRETT

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-14, 16-23, 26-36, 38-60 and 63-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-14, 16-23, 26-36, 38-60, 63-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. The following **Final** Office Action is in response to the filing of 3 December 2009.

Claims 1, 4-14, 16-23, 26-36, 38-60, 63-75 are pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4-14, 16-23, 26-36, 38-60, 63-75 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 1-48** of U.S. Patent No. 6,962,531. Although the conflicting claims are not identical, they are not patentably distinct from each other because the **claim 1** in the referenced patent reads:

1 A system for providing service to customers at service locations, each service location having a communication device adapted to communicate one or more events pertaining to a service event for a customer at the service location, the system comprising:

a decisioning system communicatively coupled to the communication devices to receive the events, and including a plurality of rules for scheduling the events for service, the decisioning system selecting a primary service attendant from a plurality of service attendants for servicing each event;

a communication system communicatively coupled to the decisioning system to transmit a message to the primary service attendant selected for an event, the message indicating the service location at which the event is to be serviced; and

a plurality of message receivers, used by the service attendants, the primary service attendant using a message receiver to receive the message from the communication system,

wherein the service locations are gaming machines, and the communication devices communicate game events to a gaming machine management system.

Claim 1 in the instant application reads:

1 A system for providing service to customers in a business establishment, the system comprising:

a plurality of service locations physically located in a business establishment, each service location including a communication device adapted to communicate one or more events pertaining to a service event for a customer who is physically located at the service location in the business establishment, wherein the service locations comprise gaming machines, and the communication devices of the gaming machines are adapted to communicate game events to a gaming machine management system;

a decisioning system communicatively coupled to the communication devices to receive the events, the decisioning system configured to schedule a primary service attendant from a plurality of service attendants for servicing each event according to at least a value of the customer at the service location that generated the event, wherein the value of the customer comprises a dynamic theoretical win profile that is based at least in part on an estimate of the business establishment's expected revenue per time period based on the customer's historical gaming activity;

**a communication system communicatively coupled to the decisioning system to transmit a message to the primary service attendant selected for an event, the message indicating a physical location in the business establishment, corresponding to the service location at which the event is to be serviced and to which the primary service attendant is to travel to service the service event; and
a plurality of message receivers for use by the service attendants, including the primary service attendant, each message receiver configured to**

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receive messages from the communication system and display the received messages to a service attendant.

Thus the narrowness of Claim 1 in the instant application is such that it reads on Claim 1 in the patented parent application.

US 6,962,531	US Application 09/782677
<p data-bbox="47 247 472 379">cl. 1 A system for providing service to customers at service locations, each service location having a communication device adapted to communicate one or more events pertaining to a service event for a customer at the service location, the system comprising:</p> <p data-bbox="47 613 472 744">a decisioning system communicatively coupled to the communication devices to receive the events, and including a plurality of rules for scheduling the events for service, the decisioning system selecting a primary service attendant from a plurality of service attendants for servicing each event;</p> <p data-bbox="47 821 472 929">a communication system communicatively coupled to the decisioning system to transmit a message to the primary service attendant selected for an event, the message indicating the service location at which the event is to be serviced, and</p> <p data-bbox="47 958 472 1044">a plurality of message receivers, used by the service attendants, the primary service attendant using a message receiver to receive the message from the communication system,</p> <p data-bbox="47 1073 472 1160">wherein the service locations are gaming machines, and the communication devices communicate game events to a gaming machine management system.</p>	<p data-bbox="496 247 957 426">cl. 1 A system for providing service to customers in a business establishment, the system comprising: a plurality of service locations physically located in a business establishment, each service location including a communication device adapted to communicate one or more events pertaining to a service event for a customer who is physically located at the service location in the business establishment,</p> <p data-bbox="496 455 957 542">wherein the service locations comprise gaming machines, and the communication devices of the gaming machines are adapted to communicate game events to a gaming machine management system;</p> <p data-bbox="496 636 957 884">a decisioning system communicatively coupled to the communication devices to receive the events, the decisioning system configured to schedule a primary service attendant from a plurality of service attendants for servicing each event according to at least a value of the customer at the service location that generated the event, wherein the value of the customer comprises a dynamic theoretical win profile that is based at least in part on an estimate of the business establishment's expected revenue per time period based on the customer's historical gaming activity;</p> <p data-bbox="496 886 957 1068">a communication system communicatively coupled to the decisioning system to transmit a message to the primary service attendant selected for an event, the message indicating a physical location in the business establishment, corresponding to the service location at which the event is to be serviced and to which the primary service attendant is to travel to service the service event; and</p> <p data-bbox="496 1071 957 1176">a plurality of message receivers for use by the service attendants, including the primary service attendant, each message receiver configured to receive messages from the communication system and display the received messages to a service attendant.</p>

The limitations added to the instant application that are missing from the referenced patent include:

a plurality of service locations physically located in a business establishment

However, the "service locations" cited in the referenced patent would include where those locations included physical locations, since it is old and well known in the art for service to locations to include service locations which are physical.

the decisioning system configured to schedule a primary service attendant from a plurality of service attendants for servicing each event according to at least a value of the customer at the service location that generated the event, wherein the value of the customer comprises a dynamic theoretical win profile that is based at least in part on an estimate of the business establishment's expected revenue per time period based on the customer's historical gaming activity;

The referenced patent recites a plurality of rules for scheduling the attendant. Here the claim recites a rule for scheduling based on the value of the customer as per their win profile. It is old and well known in the art to make integral that which was separable(i.e. to have one rule in instead of many).

and to which the primary service attendant is to travel to service the service event;

It is old and well known as per above to have service locations which are physical, and also old and well known to have service attendants travel to the service locations to provide service.

and display the received messages to a service attendant.

The referenced patent teaches transmitting messages to a service attendant. It is also old and well known in the art to display messages that have been received. Thus it would have been obvious to display the received messages to a service attendant thus resulting in the service attendant able to see the received messages on a display.

Thus Claim 1 in the instant application is a combination of obvious modifications to Claim 1 in the referenced patent.

Independent Claim 23 in the instant application recites substantially similar limitations to Claim 12 in the referenced patent. Claim 23 is obvious over independent Claim 12 for the same reasons given above.

Independent Claim 45 in the instant application recites substantially similar limitations to Claim 23 in the referenced patent. Claim 45 is obvious over independent Claim 23 for the same reasons given above

Independent Claim 46 in the instant application recites substantially similar limitations to Claim 24 in the referenced patent. Claim 46 is obvious over independent Claim 24 for the same reasons given above.

Independent Claim 75 in the instant application recites substantially similar limitations to Claim 39 in the referenced patent. Claim 75 is obvious over independent Claim 39 for the same reasons given above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on Monday through Friday, 9 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JGS
3-11-2010
/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623